

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:22-cv-00122-MR-WCM

JUAN OSPINA,

Plaintiff,

v.

HORD SERVICES, INC.;  
ARTHUR SERVICES, INC.;  
HSI LAND CLEARING, LLC;  
HSI LAND DEVELOPMENT, LLC; and  
DWAYNE HORD, an individual,

Defendants.

ORDER

This matter is before the Court *sua sponte*.

On September 6, 2022, Defendants Hord Services, Inc., Arthur Services, Inc., HSI Land Clearing, LLC, and Dwayne Hord filed a Motion to Dismiss. Docs. 8, 9.

Subsequently, Plaintiff's deadline to respond to the Motion to Dismiss was extended, at Plaintiff's request, through and including October 4, 2022.

On October 4, 2022, Plaintiff filed a Motion for Permission to File Amended Complaint. Doc. 12. That motion was denied without prejudice by Order entered on October 6, 2022. Doc. 14.

Plaintiff has not filed a renewed motion for leave to file an amended complaint nor has Plaintiff filed any substantive response to the Motion to

Dismiss. Under these circumstances, the undersigned has considered whether to deem any objections Plaintiff may have to the Motion to Dismiss as having been waived and to proceed to enter a memorandum and recommendation for the District Court with regard to the Motion to Dismiss.

However, bearing in mind the principle that, when possible, cases should be decided on their merits, the Court will, in its discretion and acting *sua sponte*, provide Plaintiff with a brief additional opportunity to respond to the Motion to Dismiss.

**IT IS THEREFORE ORDERED THAT** Plaintiff's deadline to file a response to Defendants' Motion to Dismiss (Doc. 8) is extended to and including **Friday, October 21, 2022**. Plaintiff is **ADVISED** that if a response is not received by that date, the undersigned will proceed to consider the Motion to Dismiss on the existing record and without a substantive response from Plaintiff.

Signed: October 18, 2022

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf  
United States Magistrate Judge

